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Purpose:

Amnd. No. 387

To exempt handicapped individuals, to change the effective date, and to make technical changes.

96TH CONGRESS
1ST SESSION

S. 930

IN THE SENATE OF THE UNITED STATES

JULY 31 (legislative day, JUNE 21), 1979

Referred to the Committee on Governmental Affairs and ordered to be printed

AMENDMENT

[IN THE NATURE OF A SUBSTITUTE]

Intended to be proposed by Mr. PERCY (for himself, Mr. DUR-
ENBERGER, Mr. TSONGAS, and Mr. ZORINSKY) to S. 930, a
bill to amend the National Energy Conservation Policy Act
to prohibit free Federal employee parking, viz: Strike out all
after the enacting clause and insert in lieu thereof the
following:

- 1 That this Act may be cited as the "Federal Employee Park-
- 2 ing Act".

OL 9 3862

1 SEC. 2. (a) Title V of the National Energy Conservation
2 Policy Act is amended by adding at the end thereof the fol-
3 lowing new part:

4 "PART 5—FEDERAL EMPLOYEE PARKING

5 "SEC. 571. (a) No real property located in the United
6 States which—

7 "(1) is owned or leased by, or otherwise under the
8 jurisdiction of, the United States Government, and

9 "(2) is principally utilized, as determined by the
10 Administrator of General Services, to provide parking
11 facilities for privately owned motor vehicles in connec-
12 tion with employment, business, or visitation at Fed-
13 eral offices or installations

14 may be utilized as a parking facility unless there is assessed
15 against each vehicle using the parking facility a charge or fee
16 which is within the range of charges or fees generally appli-
17 cable for public parking purposes and similar parking facili-
18 ties in the same general locality.

19 "(b) Subsection (a) shall not apply to—

20 "(1) vehicles operated by registered handicapped
21 drivers, or

22 "(2) parking facilities which are provided in con-
23 nection with any Federal employee's residence, includ-
24 ing but not limited to, parking facilities in connection

1 with housing and visitation at military bases and instal-
2 lations.

3 "(c) The Administrator of General Services, the Direc-
4 tor of the Administrative Office of the United States Courts,
5 and the Architect of the Capitol shall take such steps as may
6 be necessary to coordinate the respective activities of the ex-
7 ecutive, judicial, and legislative branches of the Government
8 in the implementation of the provisions of this section.

9 "(d)(1) For the purpose of this section, the term 'similar
10 parking facility in the same general locality' means publicly
11 available parking facilities in nearby business or commercial
12 areas which are of the same kind (lot, garage, or on street
13 parking), convenience, and quality as that granted as the
14 parking facility on the Federal property.

15 "(2) If no fee or charge is assessed on vehicles at similar
16 parking facilities described in paragraph (1) in the same gen-
17 eral locality, no fee or charge shall be assessed under this
18 section.

19 "(e)(1) Except as provided in paragraphs (2) and (3), the
20 provisions of this section shall take effect on the date of the
21 enactment of this Act and shall apply to vehicles utilizing
22 parking facilities on Federal property after September 30,
23 1979.

24 "(2) During the period beginning on October 1, 1979,
25 and ending on September 30, 1981, the fee or charge as-

1 sessed against any vehicle parking in a parking facility on
2 Federal property shall be equal to 50 per centum of the
3 charge or fee otherwise determined under this section.

4 “(3) The Administrator of General Services may phase
5 in the application of the provisions of this section with re-
6 spect to any employees if the Administrator determines it is
7 necessary to meet any legal obligations.

8 “(f) All revenues collected pursuant to the provisions of
9 this section shall be deposited into the Treasury of the United
10 States as miscellaneous receipts.”.

11 (b) The table of contents of such Act is amended by
12 inserting immediately after the item relating to section 569
13 the following:

“PART 5—FEDERAL EMPLOYEE PARKING

“Sec. 571. Federal employee parking.”.

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LOGISTICS

HN
16 April 1979

STAT

NEW POLICY ON
FEDERAL EMPLOYEE PARKING FACILITIES

1. In response to the energy crisis, the President recently announced a policy to charge employees for parking at U.S. Government facilities. While no formal program has been established, the Agency has received for review and comments a draft OMB circular on employee parking. These comments are due by 30 April 1979.

2. Parking fees are not intended as a revenue device but rather as a means to further a national policy towards energy conservation. This policy is expected to result in greater use of public transportation and carpools, a cleaner environment, cost savings to the taxpayer, and reduced traffic congestion. With the goal of this policy, it is inconsistent for the U.S. Government to subsidize employee parking.

3. Major points raised in the circular are as follows:

a. Parking fees will be established at all Federal installations based on the fair monthly rental value of the parking space.

b. Authority to establish charges for parking spaces is contained in the Federal Property and Administration Act, as amended, 400 U.S.C. 490.

c. The Administrator of GSA will determine the rate to be charged for Government-furnished employee parking at each facility. GSA will determine rates by 1 September 1979. Charges will go into effect on 1 October 1979. For the initial period, 1 October 1979 to 30 September 1981, charges will be 50 percent of the full rate. Full charges will be collected after 1 October 1981.

d. The parking rate will not be less than the fair rental value used in calculating the Standard Level User Charge (i.e., the rent GSA now charges the Agency for parking areas at headquarters and other Agency-occupied leased space) and any direct costs associated with management of parking facilities.

e. Where rental value is less than \$10 per month, the fee may be waived by the head of the agency.

f. Where no charge is levied, an agency is required to develop and implement affirmative plans for maximizing carpooling and vanpooling among employees.

STAT

HN
16 April 1979

LOGISTICS

4. It is difficult to project parking fees to be charged by GSA since such charges will vary significantly from one location to another for this Agency. The Agency will make every effort to have OMB and GSA take into consideration the peculiar circumstances associated with our dispersed locations, lack of adequate public transportation facilities, personnel working irregular hours or rotating shift work, and problems associated with handicapped employees.

5. Copies of the OMB circular have been provided to each directorate to ensure consideration of all views.

DON I. WORTMAN
Deputy Director
for
Administration

DISTRIBUTION: ALL EMPLOYEES

LOGISTICS

HN
16 April 1979NEW POLICY ON
FEDERAL EMPLOYEE PARKING FACILITIES

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d. The parking rate will not be less than the fair rental value used in calculating the Standard Level User Charge (i.e., the rent GSA now charges the Agency for parking areas at headquarters and other Agency-occupied leased space) and any direct costs associated with management of parking facilities.

e. Where rental value is less than \$10^{per space (?)} per month, the fee may be waived by the head of the agency. *

f. Where no charge is levied, an agency is required to develop and implement affirmative plans for maximizing ^{commuter vehicle} carpooling and vanpooling among employees.

* Editor's note: If the purpose of this policy is to reduce the consumption of gas, then all fees should be charged regardless of size.

STAT

HN
16 April 1979

LOGISTICS

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5. Copies of the OMB circular have been provided to each directorate to ensure consideration of all views.

DON I. WORTMAN
Deputy Director
for
Administration

DISTRIBUTION: ALL EMPLOYEES

* Editor's note: None of these seem peculiar to the Agency (there are dozens of outlying agencies or arms of agencies), but I would press for more and better public transportation before I would seek relief from the policy.

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The American Association of Independent Motorists* (AAIM), citing the President's newly announced policy of charging Government employees for automobile parking spaces as "a threat to personal freedom no less frightening than attempts to register guns," has called on the American Rifle Association (ARA) to join it in a nationwide umbrella organization for the principal purpose of monitoring the Government's attempts to infringe on people's rights and to bring suits against the Government when such attempts are revealed.

No formal response has yet been received from the ARA, but inquiries have evoked many sympathetic voices there and a generally affirmative atmosphere. The only sour note was struck by the secretary general, who said, "This is a great idea, and I hope that the Board of Directors of our organization will agree to join with the AAIM. My only concern is that the AAIM may try to preempt the ARA in choosing a name, hoping that because their initials would precede the ARA's in an alphabetized list ~~that~~ their name would come first.

* "A man has as much right to be free from Government harassment while he is sitting behind the steeringwheel of his automobile as he does when sitting before the fire at home in his favorite chair."

- Henry Ford, 1919

V

96TH CONGRESS
1ST SESSION

H. CON. RES. 105

Requiring imposition of charges for congressional parking spaces.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 1979

Mr. FOLEY submitted the following concurrent resolution; which was referred to
the Committee on House Administration

CONCURRENT RESOLUTION

Requiring imposition of charges for congressional parking
spaces.

1 *Resolved by the House of Representatives (the Senate*
2 *concurring), That (a) the Building Commission of the House*
3 *of Representatives and the Committee on Rules and Admin-*
4 *istration of the Senate shall issue joint regulations requiring*
5 *the payment of uniform reasonable charges by each Member*
6 *of Congress, congressional employee, and other person as-*
7 *signed a parking space under the jurisdiction of the Congress*
8 *for a period of thirty days or longer for a private vehicle or*
9 *official vehicle not required for the essential operations of*

1 (b) The regulations referred to in subsection (a) shall
2 provide that all charges imposed under this resolution shall
3 be suspended if either House of Congress, without the con-
4 currence of the other, alters the uniformity of such charges.

5 (c) The regulations referred to in subsection (a) shall be
6 issued within six months after this resolution is agreed to by
7 the Congress and shall take into consideration such factors as
8 the character of the parking spaces involved, charges for
9 parking by Federal employees to whom this resolution is not
10 applicable, commercial rates and charges for parking, and
11 any other factors, such as consideration for physical handi-
12 caps, that will result in fair and equitable charges.

13 SEC. 2. Amounts collected under this resolution shall be
14 deposited in the general fund of the Treasury as miscella-
15 neous receipts.

16 SEC. 3. As used in this resolution—

17 (1) the term "Member of Congress" means a Sen-
18 ator or Representative in, or a Delegate or Resident
19 Commissioner to, the Congress; and

20 (2) the term "congressional employee" has the
21 meaning given such term in section 2107 of title 5,
22 United States Code.

96TH CONGRESS
1ST SESSION

S. 930

To amend the National Energy Conservation Policy Act to prohibit free Federal employee parking.

IN THE SENATE OF THE UNITED STATES

APRIL 9, 1979

Mr. PERCY (for himself and Mr. DURENBERGER) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

A BILL

To amend the National Energy Conservation Policy Act to prohibit free Federal employee parking.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Federal Employee Park-
4 ing Act".

5 SEC. 2. (a) Title V of the National Energy Conservation
6 Policy Act is amended by adding at the end thereof the fol-
7 lowing new part:

II—E

1 “PART 5—FEDERAL EMPLOYEE PARKING

2 “SEC. 571. (a) No real property located in the United
3 States, which is owned or leased by, or otherwise under the
4 jurisdiction of the United States Government, which is princi-
5 pally utilized, as determined by the Administrator of General
6 Services, to provide parking facilities for privately owned
7 motor vehicles in connection with employment, business, or
8 visitation of Federal offices or installations, may be utilized
9 for such propose unless there is assessed against each such
10 vehicle a charge or fee within the range of charges or fees
11 generally applicable for public parking purposes in similar
12 facilities in the same general locality.

13 “(b) As used in this section the term ‘similar facilities’
14 shall refer to publicly available parking facilities in nearby
15 business or commercial areas which are of the same kind (lot,
16 garage, or onstreet parking), convenience, and quality as that
17 granted on the Federal property. If such similar facilities do
18 not exist in nearby areas a fee shall be assessed which re-
19 flects fees charged in any public or private parking facility in
20 a comparable area elsewhere in the United States.

21 “(c) The restrictions imposed by subsection (a) shall not
22 be applicable to parking facilities provided in connection with
23 any Federal employee’s residence, including, but not limited
24 to, housing and visitation facilities at military bases and
25 installations.

1 “(d) The Administrator of General Services, the Direc-
2 tor of the Administrative Office of the United States Courts,
3 and the Architect of the Capitol shall take such steps as may
4 be necessary to coordinate the respective activities of the ex-
5 ecutive, judicial, and legislative branches of the Government
6 in the implementation of the restrictions imposed under sub-
7 section (a).

8 “(e) The provisions of this section shall become effective
9 upon enactment; except that the restrictions imposed by sub-
10 section (a) shall become effective on October 1, 1979, with
11 such phaseout period as the Administrator of the General
12 Services Administration determines is necessary to meet any
13 legal obligations or other compelling considerations.

14 “(f) All revenues collected pursuant to the provisions of
15 this section shall be deposited into the Treasury of the United
16 States as miscellaneous receipts.”.

17 (b) The table of contents of such Act is amended by
18 inserting immediately after section 509 the following:

“PART 5—FEDERAL EMPLOYEE PARKING

“SEC. 571. Federal employee parking.”.

○

presidential documents

36869

[3195-01]

Title 3—The President

Executive Order 12072

August 16, 1978

Federal Space Management

By the authority vested in me as President of the United States of America by Section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and in order to prescribe appropriate policies and directives, not inconsistent with that Act and other applicable provisions of law, for the planning, acquisition, utilization, and management of Federal space facilities, it is hereby ordered as follows:

1-1 *Space Acquisition.*

1-101. Federal facilities and Federal use of space in urban areas shall serve to strengthen the Nation's cities and to make them attractive places to live and work. Such Federal space shall conserve existing urban resources and encourage the development and redevelopment of cities.

1-102. Procedures for meeting space needs in urban areas shall give serious consideration to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in the urban area.

1-103. Except where such selection is otherwise prohibited, the process for meeting Federal space needs in urban areas shall give first consideration to a centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials.

1-104. The process of meeting Federal space needs in urban areas shall be consistent with the policies of this Order and shall include consideration of the following criteria:

(a) Compatability of the site with State, regional, or local development, redevelopment, or conservation objectives.

(b) Conformity with the activities and programs of other Federal agencies.

(c) Impact on economic development and employment opportunities in the urban area, including the utilization of human, natural, cultural, and community resources.

(d) Availability of adequate low and moderate income housing for Federal employees and their families on a nondiscriminatory basis.

(e) Availability of adequate public transportation and parking and accessibility to the public.

1-105. Procedures for meeting space needs in urban areas shall be consistent with the policies of this Order and shall include consideration of the following alternatives:

(a) Availability of existing Federally controlled facilities.

(b) Utilization of buildings of historic, architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507, 40 U.S.C. 612a).

(c) Acquisition or utilization of existing privately owned facilities.

(d) Construction of new facilities.

Approved For Release 2006/10/30 : CIA-RDP85-00988R000600100002-4
 (e) Opportunities for locating cultural, educational, recreational, and commercial activities in the proposed facility.

1-106. Site selection and space assignments shall take into account the management needs for consolidation of agencies or activities in common or adjacent space in order to improve administration and management and effect economies.

1-2. Administrator of General Services.

1-201. The Administrator of General Services shall develop programs to implement the policies of this Order through the efficient acquisition and utilization of Federally owned and leased space. In particular, the Administrator shall:

(a) Select, acquire, and manage Federal space in a manner which will foster the policies and programs of the Federal government and improve the management and administration of government activities.

(b) Issue regulations, standards, and criteria for the selection, acquisition, and management of Federally owned and leased space.

(c) Periodically undertake surveys of space requirements and space utilization in the executive agencies.

(d) Ensure, in cooperation with the heads of Executive agencies, that their essential space requirements are met in a manner that is economically feasible and prudent.

(e) Make maximum use of existing Federally controlled facilities which, in his judgment, are adequate or economically adaptable to meeting the space needs of executive agencies.

(f) Annually submit long-range plans and programs for the acquisition, modernization, and use of space for approval by the President.

1-202. The Administrator is authorized to request from any Executive agency such information and assistance deemed necessary to carry out his functions under this Order. Each agency shall, to the extent not prohibited by law, furnish such information and assistance to the Administrator.

1-203. In the process of meeting Federal space needs in urban areas and implementing the policies of this Order, the Administrator shall:

(a) Consider the efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance and improvement of safe and healthful working conditions for employees.

(b) Coordinate proposed programs and plans for facilities and space with the Director of the Office of Management and Budget.

(c) Consult with appropriate Federal, State, regional, and local government officials and consider their recommendations for and objections to a proposed selection site or space acquisition.

(d) Coordinate proposed programs and plans for facilities and space in a manner designed to implement the purposes of this Order.

(e) Prior to making a final determination concerning the location of Federal facilities, notify the concerned Executive agency of an intended course of action and take into account any additional information provided.

1-204. In ascertaining the social, economic, environmental and other impacts which site selection would have on a community, the Administrator shall, when appropriate, obtain the advice of interested agencies.

1-3. General Provisions.

1-301. The heads of Executive agencies shall cooperate with the Administrator in implementing the policies of this Order and shall economize on their use of space. They shall ensure that the Administrator is given early notice of

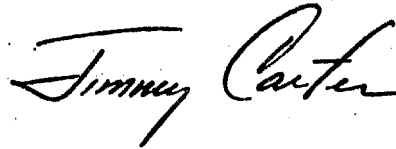
THE PRESIDENT

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new or changing missions or organizational realignments which affect space requirements.

1-302. Executive agencies which acquire or utilize Federally owned or leased space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, shall conform to the provisions of this Order to the extent they have the authority to do so.

1-303. Executive Order No. 11512 of February 27, 1970, is revoked.



THE WHITE HOUSE,
August 16, 1978.

[FR Doc. 78-23438 Filed 8-17-78; 11:38 am]

EDITORIAL NOTE: The President's remarks of Aug. 16, 1978, on signing Executive Order 12072, are printed in the Weekly Compilation of Presidential Documents (vol. 14, no. 33).

EXECUTIVE ORDERS

No. 12072

Aug. 16, 1978, 43 F.R. 36869

FEDERAL SPACE MANAGEMENT

By the authority vested in me as President of the United States of America by Section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and in order to prescribe appropriate policies and directives, not inconsistent with that Act and other applicable provisions of law, for the planning, acquisition, utilization, and management of Federal space facilities, it is hereby ordered as follows:

1-1. Space Acquisition.

1-101. Federal facilities and Federal use of space in urban areas shall serve to strengthen the Nation's cities and to make them attractive places to live and work. Such Federal space shall conserve existing urban resources and encourage the development and redevelopment of cities.

1-102. Procedures for meeting space needs in urban areas shall give serious consideration to the impact a site selection will have on improving the social, economic, environmental, and cultural conditions of the communities in the urban area.

1-103. Except where such selection is otherwise prohibited, the process for meeting Federal space needs in urban areas shall give first consideration to a centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials.

1-104. The process of meeting Federal space needs in urban areas shall be consistent with the policies of this Order and shall include consideration of the following criteria:

(a) Compatability of the site with State, regional, or local development, redevelopment, or conservation objectives.

(b) Conformity with the activities and programs of other Federal agencies.

(c) Impact on economic development and employment opportunities in the urban area, including the utilization of human, natural, cultural, and community resources.

(d) Availability of adequate low and moderate income housing for Federal employees and their families on a nondiscriminatory basis.

(e) Availability of adequate public transportation and parking and accessibility to the public.

1-105. Procedures for meeting space needs in urban areas shall be consistent with the policies of this Order and shall include consideration of the following alternatives:

(a) Availability of existing Federally controlled facilities.

(b) Utilization of buildings of historic, architectural, or cultural significance within the meaning of section 105 of the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2507, 40 U.S.C. 612a).

(c) Acquisition or utilization of existing privately owned facilities.

(d) Construction of new facilities.

(e) Opportunities for locating cultural, educational, recreational, or commercial activities within the proposed facility.

1-106. Site selection and space assignments shall take into account the management needs for consolidation of agencies or activities in common or adjacent space in order to improve administration and management and effect economies.

1-2. Administrator of General Services.

1-201. The Administrator of General Services shall develop programs to implement the policies of this Order through the efficient acquisition

EXECUTIVE ORDERS

and utilization of Federally owned and leased space. In particular, the Administrator shall:

(a) Select, acquire, and manage Federal space in a manner which will foster the policies and programs of the Federal government and improve the management and administration of government activities.

(b) Issue regulations, standards, and criteria for the selection, acquisition, and management of Federally owned and leased space.

(c) Periodically undertakes surveys of space requirements and space utilization in the executive agencies.

(d) Ensure, in cooperation with the heads of Executive agencies, that their essential space requirements are met in a manner that is economically feasible and prudent.

(e) Make maximum use of existing Federally controlled facilities which, in his judgment, are adequate or economically adaptable to meeting the space needs of executive agencies.

(f) Annually submit long-range plans and programs for the acquisition, modernization, and use of space for approval by the President.

1-202. The Administrator is authorized to request from any Executive agency such information and assistance deemed necessary to carry out his functions under this Order. Each agency shall, to the extent not prohibited by law, furnish such information and assistance to the Administrator.

1-203. In the process of meeting Federal space needs in urban areas and implementing the policies of this Order, the Administrator shall:

(a) Consider the efficient performance of the missions and programs of the agencies, the nature and function of the facilities involved, the convenience of the public served, and the maintenance and improvement of safe and healthful working conditions for employees.

(b) Coordinate proposed programs and plans for facilities and space with the Director of the Office of Management and Budget.

(c) Consult with appropriate Federal, State, regional, and local government officials and consider their recommendations for and objections to a proposed selection site or space acquisition.

(d) Coordinate proposed programs and plans for facilities and space in a manner designed to implement the purposes of this Order.

(e) Prior to making a final determination concerning the location of Federal facilities, notify the concerned Executive agency of an intended course of action and take into account any additional information provided.

1-204. In ascertaining the social, economic, environmental and other impacts which site selection would have on a community, the Administrator shall, when appropriate, obtain the advice of interested agencies.

1-3. General Provisions.

1-301. The heads of Executive agencies shall cooperate with the Administrator in implementing the policies of this Order and shall economize on their use of space. They shall ensure that the Administrator is given early notice of new or changing missions or organizational realignments which affect space requirements.

1-302. Executive agencies which acquire or utilize Federally owned or leased space under authority other than the Federal Property and Administrative Services Act of 1949, as amended, shall conform to the provisions of this Order to the extent they have the authority to do so.

1-303. Executive Order No. 11512 of February 27, 1970, is revoked.

JIMMY CARTER

THE WHITE HOUSE,
August 16, 1978.

14 SEP 1977

Mr. Edward M. Kidwell, Director
Space Management Division
Office of Operating Programs
General Services Administration
Washington, D.C. 20407

Dear Mr. Kidwell:

☐ As you are aware, this Agency presently occupies office space in the ☐

☐ The General Services Administration (GSA) lease is for a period of 10 years (1975-85) with a renewal clause for an additional 10 years. During FY 1977 this Agency was charged by GSA, under the Standard Level User Charge (SLUC) program, a total of \$856,890 for this space. Of the \$856,890, \$143,640 was for outside parking that has been made available to this Agency by the lessor under the terms of the lease. During FY 1978 the cost for the parking will decrease to an estimated \$25,200 annual cost due to the adoption of the Fair Annual Rental (FAR) system. It should be noted that this parking area (126,000 square feet) is not a costed item on the lease but instead is provided to the Government on a no cost basis. Therefore, it is our conclusion that since GSA does not have the responsibility of maintaining the parking area, and the Government is not charged by the lessor for the use of the space, this Agency should not be charged under SLUC for the space.

☐ The Agency presently occupies space at three other locations ☐ where parking space is provided by the lessor and there is no charge by GSA under the SLUC program.

☐ In accordance with 101-21.606, Review and Appeals of the Federal Property Management Regulations, it is requested that GSA review the charge and determine whether or not this Agency should be reimbursing GSA for the outside parking at the

OL 7 4170

WARNING NOTICE
SENSITIVE INTELLIGENCE SOURCES
AND METHODS INCLUDED

CONFIDENTIAL

CONFIDENTIAL

Mr. Edward M. Kidwell

Page 2

25X1

If further information or assistance
is required please contact

☐ The nominal assignee of this space is the Executive
Office of the President, and any reference to this 25X1
Agency in connection with this space is classified CONFIDENTIAL.

☐ Your cooperation and assistance in this matter is
greatly appreciated.

Sincerely,

25X1

Chief
Real Estate and Construction Division, OL

Distribution:

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CONFIDENTIAL

STAT

Approved For Release 2006/10/30 : CIA-RDP85-00988R000600100002-4

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ADMINISTRATIVE - INTERNAL USE ONLY
This Notice Expires 1 August 1978

LOGISTICS

HN []
6 July 1977

STAT

REALLOCATION AND REVALIDATION OF PARKING PERMITS

Rescission: [] dated 9 March 1968

1. This notice is to inform employees that a reallocation and revalidation of parking permits (including carpool permits) is to be made for the Headquarters and [] areas. New parking permits will be distributed to the directorates (including the DCI and ICS areas) by 26 September 1977 but will not become valid until 3 October 1977. Permits presently in use must be used through 2 October 1977.

2. Parking at the Headquarters Building is a privilege governed by Federal Management Policy Directives, General Services Administration (GSA) parking and traffic regulations, and by [] Federal Protective Officers (FPO's) of the Federal Protective Service Division of GSA have authority to enforce the regulations and to handle related administrative matters. Parking and traffic violations are under the jurisdiction of the United States District Court of the Eastern District of Virginia, and all fines are levied by a United States Commissioner. GSA regulations provide for a minimum fine of \$5, a maximum fine of \$50 and/or imprisonment for up to 30 days for violation of vehicle parking and traffic regulations. Although [] compound does not fall under the jurisdiction of the GSA or Federal Protective Service because it is a leased building, the responsibility has been delegated to the Office of Logistics for monitoring the issuance of warning notices and reporting the abuse of parking privileges to the appropriate Agency component. Personnel located at Headquarters and the [] who continue to abuse parking privileges will have their parking permits revoked for a period of 30 to 60 days. Additionally, the Federal Parking Regulations, under which carpools receive preferential parking privileges, impose a mandatory penalty of at least six months suspension of reserved space privileges for misrepresentation of carpool membership or application qualifications, or for violation of other Agency carpool requirements.

3. In accordance with [] the Director of Logistics is responsible for the control and issuance of parking permits to the directorates based on the number of personnel assigned to each directorate within the Headquarters and []. Each directorate is responsible for the internal allocation of all permits with the exception of carpool and handicapped permits in accordance with basic parking policy.

STAT

HN [REDACTED]
 6 July 1977

LOGISTICS

4. All vehicles parked within the Headquarters and [REDACTED] Building compounds, with the exception of open parking in the West Lot at Headquarters and the general parking area at [REDACTED], must display a valid parking permit in such a manner that it is clearly visible and identifiable by an FPO or a designated Logistics Officer patrolling the area. Employees are cautioned not to display permits when vehicles are not parked on the compounds.

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5. The types of permits to be issued are as follows:

a. Reserved Permits are for specific reserved-by-number spaces that are reserved at all times. Reserved permits are allocated to each directorate, in accordance with Federal parking policy guidelines, for reissue to executive-level and other personnel for reasons of official responsibility or unusual working hours. Form 3614, Parking Record, is required upon receipt of a reserved permit.

(1) Spaces for the Handicapped--Reserved parking spaces for medically/physically handicapped employees will be issued and controlled by the Office of Logistics, Logistics Services Division (OL/LSD). In addition, the first four spaces in the North Lot "A" Lane of the Headquarters Building will be reserved for visiting and temporarily handicapped employees.

(2) Alternate Parking--Employees (other than carpool permit holders) assigned a reserved parking space may use any general permit parking area available at the Headquarters Building and any lane permit parking area at the [REDACTED] Building in the event their assigned space is occupied illegally by another vehicle. This does not relieve the person illegally parked in a reserved space from the penalties set forth in HR [REDACTED]. Individuals assigned reserved spaces should report any violator to the Federal Protective Service, [REDACTED].

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b. Carpool Permits are reserved by specific space number from 7:00 a.m. to 5:00 p.m., except Saturdays, Sundays, and holidays, and are issued only to bona fide carpools. A carpool is defined as two or more employees who regularly commute five days a week to and from the Headquarters Building or to and from [REDACTED] and whose normal duty hours begin between 7:00 a.m. and 12:00 noon. However, to qualify as a Headquarters or [REDACTED] carpool member, you must work at the building the permit applies to. Carpool permits are for two or more employees and are for a specific reserved space. These permits are distributed by the

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Office of Logistics, Logistics Services Division, to the principal applicants through their administrative offices for the initial reallocation and thereafter will be issued directly to the principal member, upon receipt of a properly executed Form 3545, Application for Carpool Parking Permit, and Form 3614, Parking Record. (OL/LSD has the authority to verify the validity of an address). If a carpool fails to meet the criteria stipulated above for a period in excess of ten consecutive workdays, the permit must be surrendered to OL/LSD, Room 1J45, Headquarters Building, extension []. However, carpools that have surrendered their permits may reapply at any time they meet the qualification for a carpool member, but their application will be processed as a new application on a first come, first receive basis. The appropriate Forms 3545 and 3614 may be obtained from Room 1J45, Headquarters Building, or 2nd floor, main receptionist area at the [] Building on 1 August 1977. The completed forms must be forwarded to the appropriate administrative officer in sufficient time to verify and forward the applications to OL/LSD by close of business 9 September 1977. Carpool members should review their insurance to verify that they are adequately insured as carpool participants.

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c. General Headquarters Permits and Lane [] Permits are allocated to each directorate and are valid only for the area designated on the permit. These areas are restricted to holders of appropriate permits from 7:00 a.m. to 5:00 p.m., except on Saturdays, Sundays, and holidays. Permits will be issued by each directorate to appropriate individuals. Form 3614, Parking Record, is required upon receipt of a general lane permit.

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d. Visitor Permits are issued to Agency components located outside the Headquarters Building and are for the use of personnel of those components when parking privately owned vehicles (POV's) in the Headquarters Building compound. The following rules apply to each visitors' permit at Headquarters Building compound:

(1) Front/VIP--This permit is valid only for the area indicated on the permit. In the event the area is full, the permit can be used in any of the visitor parking areas on the compound.

(2) North "A"--This permit is valid only for the area indicated on the permit. In the event the area is full, the permit can be used for parking in the West Lot "O" Lane.

(3) West "O"--This permit is valid only for the area indicated on the permit.

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Visitor permits are also issued to Agency components located outside the [REDACTED]. However, this permit is valid only for the area and section designated on a first come basis. If all spaces are occupied, employees must park in the general parking section (no permit required section).

e. Shift permits will be issued upon memorandum request to OL/LSD through the component administrative officer. Shift permits are valid only between the hours of 2:00 p.m. and 8:00 a.m., and only in the general permit parking area at Headquarters Building and lane permit parking areas at [REDACTED]. Shift permits are not valid for other parking areas.

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f. A Dock Pass will be issued upon memorandum request to OL/LSD or by the FPO dock control officer for POV's requiring temporary access to the loading dock area for official purposes. This permit is valid only for the North or South Dock areas in the Headquarters Building and is limited to one-hour parking time.

6. All personnel are reminded that the North and South Loading Dock areas in the Headquarters Building and their access roads are restricted areas with access limited at all times to official and commercial vehicles only. POV's are not authorized to use these areas without specific authority as specified in paragraph 5(f).

7. Signs have been installed indicating all reserved, restricted, and other valid permit parking areas. All signs are designed in accordance with standards established by the Department of Transportation and indicate the time that parking in these areas is restricted or reserved on the Headquarters compound. No time is indicated on the [REDACTED] signs.

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8. Current Federal policy encourages the formation of carpools to conserve energy. The Agency has implemented this policy by reducing the number of general or lane parking spaces available to individuals and issuing reserved spaces to carpools with the priority of issuance based on the number of employees in a carpool.

9. Parking spaces for bicycles are available at the North and South Dock areas at the Headquarters compound and in the visitors section of the [REDACTED] compound. Parking spaces for two-wheel vehicles are located in North Lot "D" and "H" Lanes and South Lot "F" and "H" Lanes at Headquarters compound and in Lane "A", Area B, Section 2 of the [REDACTED] compound. No permits are required for parking in these areas. However, bicycles and two-wheeled vehicles must not be parked in other areas.

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STAT 10. No vehicle may be parked longer than 72 hours in one location in the Headquarters or compounds without prior approval. Individuals who wish to park their POV's longer than 72 hours should request permission by memorandum to the Chief, Headquarters Security Branch, Room 1E20, Headquarters Building, and include:

- a. The year, make, and model of the vehicle.
- b. The license plate number (must be current and valid).
- c. A statement that the vehicle is in operating condition.
- d. The reason for the request.
- e. The specific period in which the POV is to be parked.
- f. The name, telephone number, and/or address of the operator, owner, or representative who may be contacted during the parked period.
- g. Door and ignition keys for the vehicle.

11. All employees are reminded that violations of parking regulations not only are subject to court action (Headquarters compound only) but continued abuse may result in suspension of parking privileges and Agency administrative action (includes Headquarters and compounds). Parking violations are intrusions upon the privileges of fellow employees. Employees must be considerate of each other to assure fairness in the system.

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FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

JOHN F. BLAKE
Deputy Director
for
Administration

DISTRIBUTION: ALL EMPLOYEES

ADMINISTRATIVE - INTERNAL USE ONLY

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that a defendant was served with grand jury's subpoena, demanding his presence at the grand jury, and that such defendant had records to Assistant United States Attorney and then was not asked to appear before grand jury, and no indictment was returned, and in support of such motion defendants propounded interrogatories relating to grand jury proceedings, plaintiff would be required to answer such interrogatories since defendant's right to investigate possible cause of process of grand jury was more important than the traditional rule of secrecy of grand jury proceedings. U. S. v. Smith, D.C.Ill.1958, 22 F.R.D. 582.

1. Estoppel

Where United States sought to recover surplus property for fraudulent acquisition of surplus property and after adverse judgment in Federal court and before such judgment was affirmed by the Court of Appeals, Government accepted from defendants their promissory notes in sum equal to the amount of trial judgment and executed a requested release of judgment lien, such release did not constitute a full release of all Government claims and hence controversy could not be considered moot, and Government was not estopped from further pressing claims against defendants. U. S. v. Hougham, Cal.1960, 81 S.Ct. 13, 364 U.S. 310, 5 L.Ed.2d 8, rehearing denied 81 S.Ct. 370, 364 U.S. 938, 5 L.Ed.2d 372.

In civil action by United States to recover penalties because of alleged fraudulent scheme used to obtain surplus property from War Assets Administration, government by electing in its original complaint to seek to recover statutory damages of twice consideration agreed to be given for the property obtained which stock was made before the defendants had elected of all of the property, was bound by its election of remedies and could not later by amended complaint disaffirm transaction and proceed on theory that a constructive trust arose. U. S. v. Bernstein, D.C.Colo.1957, 149 F.Supp. 508.

Defendant, who pleaded guilty to charge of bribing an Air Force officer in connection with purchase of materials was estopped from relitigating the issues actually determined in the criminal proceeding in a subsequent civil action against defendant by the United States under said Surplus Property Act, 50 App. Former § 1611 et seq., to recover a penalty. U. S. v. Schneider, D.C.N.Y.1956, 139 F.Supp. 826.

In action by the United States against nonveteran for priority in obtaining surplus trucks from the United States through veterans, the United States was not required to prove any conspiracy between nonveteran and the veterans to file any false applications for priority certificates beyond a reasonable doubt, but was only required to adduce either substantial evidence of nonveteran's involvement in such a conspiracy, or his inducement of the misrepresentation as a fraudulent trick, scheme, or device to enable him to procure surplus trucks on a priority basis to which he was not then entitled under the act. Daniel v. U. S., C.A.Tex. 1956, 234 F.2d 102, certiorari denied 77 S.Ct. 362, 352 U.S. 971, 1 L.Ed.2d 324.

13. Res Judicata

Defendants' pleas of guilty to charges of fraud upon the United States by filing false applications for priority in the purchase of property of the United States conclusively established issue of fraud against defendants in instant civil suit under this section to recover sum of \$2,000 and double damages for each of several fraudulent transactions alleged to have been engaged in by defendants, where the fraud in both cases involved identical acts. U. S. v. Doman, C.A.Pa. 1958, 255 F.2d 865, affirmed 70 S.Ct. 755, 359 U.S. 309, 3 L.Ed.2d 828.

Where defendant had pleaded guilty to indictment charging him with having knowingly caused to be made false representations in applications for surplus government property, the plea was res judicata of all averments in the indictment, well pleaded, but not decisive of the additional charge, first made in subsequent civil action by government to recover from defendant penalties provided by this section, that defendant had actually wrongfully procured property. U. S. v. Rubin, C.A.Ill.1957, 243 F.2d 900.

Where certain questions put in issue and determined in prior prosecution for conspiracy were raised by government's civil complaint alleging conspiracy to engage in fraudulent scheme to obtain United States property in connection with its disposition under law, questions were res judicata and government was entitled to partial summary judgment as to them. U. S. v. Myers, D.C.Cal.1964, 38 F.R.D. 104.

14. Damages

Under subsec. (b) of this section authorizing United States to recover

consideration agreed to be given for surplus property under this section is applicable to cash sales despite contention that because of the nature of such sales no consideration had been agreed to be given. U. S. v. Hougham, Cal.1960, 81 S.Ct. 13, 364 U.S. 310, 5 L.Ed.2d 8, rehearing denied 81 S.Ct. 370, 364 U.S. 938, 5 L.Ed.2d 372.

Under this chapter giving United States three different measures of damages, at the end of the trial the government is entitled to that which the court has found has been established by the evidence. U. S. v. Hougham, C.A. Cal.1959, 270 F.2d 290, reversed on other grounds 81 S.Ct. 13, 364 U.S. 310, 5 L.Ed.2d 8, rehearing denied 81 S.Ct. 370, 364 U.S. 938, 5 L.Ed.2d 372.

Where government sought \$2,000 liquidated damages in its first complaint for each act of fraudulent acquisition of surplus property in violation of provisions of Surplus Property Act, defendants had no ground to complain when court awarded government \$2,000 liquidated damages for each act found although government allegedly sought in a second amended complaint, filed after expiration of limitation period invoked by defendants, to claim twice the consideration agreed to be paid for the property in the second amended complaint. Id.

Under provisions of this section giving United States three different measures of damages for violation of this chapter, such damages are not cumulative; and although there was an election by agents of United States under terms of this section to claim twice

consideration agreed to be given for surplus property in violation of provisions of Surplus Property Act, court was not bound by this section to make such an award. Id.

Defendants who used fraudulent scheme to purchase surplus trucks from United States were liable to United States for damages of twice the amount of sales price, where complaint of United States sought to recover such amount. U. S. v. Barish, D.C.Pa.1962, 205 F.Supp. 676.

15. Injunction

In action by government to rescind agreement for sale of aircraft and for injunction enjoining defendants from putting aircraft in flight, wherein government moved for preliminary injunction restraining defendants from operating aircraft in flight and it appeared that contract which required that aircraft be used for spare parts or scrap did not contain provision as to time when or place where aircraft was to be scrapped, government was not entitled to preliminary injunction restraining defendants from transporting it by a one-flight ferry to place where there was a market for its parts or scrap. U. S. v. Everts, D.C.N.Y. 1960, 187 F.Supp. 326.

16. Executed or executory contracts

Subsection (b) (2) of this section stating that United States may elect, as liquidated damages, for fraudulent obtaining of government property, to receive sum equal to twice consideration agreed to be given by such person applies to "executed" (cash paid) sales as well as "executory" (no cash paid and no goods delivered) contracts. U. S. v. Houghman, C.A.Cal.1962, 301 F.2d 133.

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§ 490. Operation of buildings and related activities by Administrator—General duties

(a) Whenever and to the extent that the Administrator has been or hereafter may be authorized by any provision of law other than this subsection to maintain, operate, and protect any building, property, or grounds situated in or outside the District of Columbia, including the construction, repair, preservation, demolition, furnishing, and equipment thereof, he is authorized in the discharge of the duties so conferred upon him—

(1) to purchase, repair, and clean uniforms for civilian employees of the General Services Administration who are required by law or regulation to wear uniform clothing;

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- (2) to furnish arms and ammunition for the protection force maintained by the General Services Administration;
- (3) to pay ground rent for buildings owned by the United States or occupied by Federal agencies, and to pay such rent in advance when required by law or when the Administrator shall determine such action to be in the public interest;
- (4) to employ and pay personnel employed in connection with the functions of operation, maintenance, and protection of property at such per diem rates as may be approved by the Administrator, not exceeding rates currently paid by private industry for similar services in the place where such services are performed;
- (5) without regard to the provisions of section 278a of this title, to pay rental, and to make repairs, alterations, and improvements under the terms of any lease entered into by, or transferred to, the General Services Administration for the housing of any Federal agency which on June 30, 1950, was specifically exempted by law from the requirements of said section;
- (6) to obtain payments, through advances or otherwise, for services, space, quarters, maintenance, repair, or other facilities furnished, on a reimbursable basis, to any other Federal agency, or any mixed-ownership corporation (as defined in the Government Corporation Control Act), or the District of Columbia, and to credit such payments to the applicable appropriation of the General Services Administration;
- (7) to make changes in, maintain, and repair the pneumatic tube system connecting buildings owned by the United States or occupied by Federal agencies in New York City installed under franchise of the city of New York, approved June 29, 1909, and June 11, 1928, and to make payments of any obligations arising thereunder in accordance with the provisions of the Acts approved August 5, 1909 (36 Stat. 120), and May 15, 1928 (45 Stat. 533);
- (8) to repair, alter, and improve rented premises, without regard to the 25 per centum limitation of section 278a of this title, upon a determination by the Administrator that by reason of circumstances set forth in such determination the execution of such work, without reference to such limitation, is advantageous to the Government in terms of economy, efficiency, or national security: *Provided*, That such determination shall show that the total cost (rentals, repairs, alterations, and improvements) to the Government for the expected life of the lease shall be less than the cost of alternative space which needs no such repairs, alterations, or improvements. A copy of every such determination so made shall be furnished to the General Accounting Office;

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- (9) to pay sums in lieu of taxes on real property declared surplus by Government corporations, pursuant to the Surplus Property Act of 1944, where legal title to such property remains in any such Government corporation;
- (10) to furnish utilities and other services where such utilities and other services are not provided from other sources to persons, firms, or corporations occupying or utilizing plants or portions of plants which constitute (A) a part of the National Industrial Reserve pursuant to the National Industrial Reserve Act of 1948, or (B) surplus real property, and to credit the amounts received therefrom to the applicable appropriation of the General Services Administration;
- (11) at the direction of the Secretary of Defense, to use proceeds received from insurance against damage to properties of the National Industrial Reserve for repair or restoration of the damaged properties;
- (12) to acquire, by purchase, condemnation, or otherwise, real estate and interests therein;
- (13) to enter into leases of Federal building sites and additions to sites, including improvements thereon, until they are needed for construction purposes, at their fair rental value and upon such other terms and conditions as the Administrator deems in the public interest pursuant to the provisions of section 484(e) of this title. Such leases may be negotiated without public advertising for bids if the lessee is the former owner from whom the property was acquired by the United States or his tenant in possession, and the lease is negotiated incident to or in connection with the acquisition of the property. Rentals received under leases executed pursuant to this paragraph may be deposited into the Buildings Management Fund established by subsection (f) of this section;
- (14) to enter into contracts for periods not exceeding three years for the inspection, maintenance, and repair of fixed equipment in such buildings which are federally owned; and
- (15) to render direct assistance to and perform special services for the Inaugural Committee (as defined in section 721 of Title 36) during an inaugural period in connection with Presidential inaugural operations and functions, including employment of personal services without regard to the civil service and classification laws; provide Government-owned and leased space for personnel and parking; pay overtime to guard and custodial forces; erect and remove stands and platforms; provide and operate first-aid stations; provide furniture and equipment; and provide other incidental services in the discretion of the Administrator.

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Buildings owned by United States

(b) At the request of any Federal agency or any mixed-ownership corporation (as defined in the Government Corporation Control Act), or the District of Columbia, the Administrator is authorized to operate, maintain, and protect any building owned by the United States (or, in the case of any wholly owned or mixed-ownership Government corporation, by such corporation) and occupied by the agency or instrumentality making such request.

Acquisition of land; surveys; construction services

(c) At the request of any Federal agency or any mixed-ownership corporation (as defined in the Government Corporation Control Act), or the District of Columbia, the Administrator is authorized (1) to acquire land for buildings and projects authorized by the Congress; (2) to make or cause to be made, under contract or otherwise, surveys and test borings and to prepare plans and specifications for such buildings and projects prior to the approval by the Attorney General of the title to the sites thereof; and (3) to contract for, and to supervise, the construction and development and the equipping of such buildings or projects. Any sum available to any such Federal agency or instrumentality for any such building or project may be transferred by such agency to the General Services Administration in advance for such purposes as the Administrator shall determine to be necessary, including the payment of salaries and expenses of personnel engaged in the preparation of plans and specifications or in field supervision, and for general office expenses to be incurred in the rendition of any such service.

Transfer of functions

(d) Whenever the Director of the Bureau of the Budget shall determine such action to be in the interest of economy or efficiency, he shall transfer to the Administrator all functions then vested in any other Federal agency with respect to the operation, maintenance, and custody of any office building owned by the United States or any wholly owned Government corporation, or any office building or part thereof occupied by any Federal agency under any lease, except that no transfer shall be made under this subsection—

(1) of any post-office building unless the Director shall first determine that such building is not used predominantly for post-office purposes, and functions which are transferred hereunder to the Administrator with respect to any post-office building may be delegated by him only to another officer or employee of the General Services Administration or to the Postmaster General;

(2) of any building located in any foreign country;

(3) of any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, airfield, proving

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ground, military supply depot, or school, or of any similar facility of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(4) of any building which the Director of the Bureau of the Budget finds to be a part of a group of buildings which are (A) located in the same vicinity, (B) utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (C) not generally suitable for the use of other agencies; or

(5) of the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

Assignment and reassignment of space

(e) Notwithstanding any other provision of law, the Administrator is authorized, in accordance with policies and directives prescribed by the President under section 486(a) of this title and after consultation with the heads of the executive agencies affected, to assign and reassign space of all executive agencies in Government-owned and leased buildings in and outside the District of Columbia upon a determination by the Administrator that such assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

Buildings Management Fund; uses; accounting; amounts; credits

(f) There may be established by the Secretary of the Treasury, on such date during the fiscal year 1953 as may be determined by the Administrator, a Buildings Management Fund, which shall be available, without fiscal year limitation, for expenses necessary for buildings management operations and related services, including demolition and improvement with respect to Federal building sites authorized to be leased pursuant to subsection (a) of this section, authorized by law to be performed by the General Services Administration. Accounting for the fund shall be maintained on the accrual method and financial reports shall be prepared on the basis of such accounting. There is authorized to be appropriated to said fund such sums as may be required, but not to exceed the amount of \$10,000,000, and any stocks of supplies and any equipment, available for buildings management functions of the General Services Administration, on hand, or on order, on the date of establishment of said fund, shall also be used to capitalize the fund: Provided, That said fund shall be credited with (1) annual advances for nonrecurring expenses, quarterly advances for other expenses, and reimbursements from available appropriations and funds of the General Services

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Operating regulations

(j) The United States Civil Service Commission shall issue regulations to govern executive agencies in authorizing civilian personnel to operate Government-owned motor vehicles for official purposes within the States of the Union, the District of Columbia, Puerto Rico, and the possessions of the United States. Such regulations shall prescribe standards of physical fitness for authorized operators and may require operators and prospective operators to obtain such State and local licenses or permits as would be required for the operation by them of similar vehicles for other than official purposes. The head of each executive agency shall issue such orders and directives as may be necessary to comply with such regulations and shall make appropriate provision therein for periodically testing the physical fitness of operators and prospective operators and for the suspension and revocation of authorizations to operate.

Identification of vehicles

(k) Under regulations prescribed by the Administrator, every motor vehicle acquired and used for official purposes within the United States, its Territories, or possessions, by any Federal agency or the District of Columbia shall be conspicuously identified by showing thereon either (1) the full name of the department, establishment, corporation, or agency by which it is used and the service in which it is used, or (2) a title descriptive of the service in which it is used if such title readily identifies the department, establishment, corporation, or agency concerned, and the legend "For official use only": *Provided*, That the regulations issued pursuant to this section may provide for exemptions from the requirement of this section when conspicuous identification would interfere with the purpose for which a vehicle is acquired and used.

Violations

(l) Whenever, during the regular course of his duties, there shall come to the knowledge of the Administrator any violation of the provisions of section 638a of Title 31 or of section 641 of Title 18 involving the conversion by a Government official or employee of a Government-owned or leased motor vehicle to his own use or the use of others, the Administrator shall report such violation to the head of the agency in which the official or employee concerned is employed, for further investigation and either appropriate disciplinary action under such section 638a of Title 31, or, where appropriate, referral to the Attorney General for prosecution under section 641 of Title 18.

(m) Repealed. Pub.L. 87-649, § 14b, Sept. 7, 1962, 76 Stat. 500.

June 30, 1949, c. 288, Title II, § 211, as added Sept. 5, 1950, c. 849, § 5(c), 64 Stat. 580, and amended Sept. 1, 1954, c. 1211, § 2, 68

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Stat. 1126; July 12, 1960, Pub.L. 86-624, § 27(b), 74 Stat. 418; Sept. 7, 1962, Pub.L. 87-649, § 14b, 76 Stat. 500.

Historical Note

References in Text. The Government Corporation Control Act, referred to in subsec. (b) is classified to chapter 14 of Title 31, Money and Finance.

1962 Amendment. Subsec. (m). Pub.L. 87-649 repealed subsec. (m) which related to travel of members of the uniformed services between duty stations, and is now covered by section 408 of Title 37, Pay and Allowances of the Uniformed Services.

1960 Amendment. Subsec. (j). Pub.L. 86-624 substituted "States of the Union, the District of Columbia, Puerto Rico, and the possessions of the United States" for "continental United States, its Territories, and possessions."

1954 Amendment. Act Sept. 1, 1954, amended section generally to establish

and operate motor pools and transportation systems.

Executive Order No. 10579. Section 9 of Ex.Ord. No. 10579, Dec. 1, 1954, 19 M. R. 7925, set out as a note under section 486 of this title, provides that any motor vehicle, the conspicuous identification of which as a Government vehicle would interfere with the purpose for which it was acquired, is exempt from inclusion in interagency pools.

Legislative History. For legislative history and purpose of Act Sept. 5, 1950, see 1950 U.S.Code Cong.Service, p. 3517. See, also, Act Sept. 1, 1954, 1954 U.S.Code Cong. and Adm.News, p. 3883; Pub.L. 86-624, 1960 U.S.Code Cong. and Adm.News, p. 2963; Pub.L. 87-649, 1962 U.S.Code Cong. and Adm.News, p. 2390.

Library References

United States ⚡57.

C.J.S. United States § 74.

§ 492. Reports to Congress

The Administrator shall submit a report to the Congress, in January of each year and at such other times as he may deem it desirable, regarding the administration of his functions under this Act, together with such recommendations for amendments to this Act as he may deem appropriate as the result of the administration of such functions, at which time he shall also cite the laws becoming obsolete by reason of passage or operation of the provisions of this Act. June 30, 1949, c. 288, Title II, § 212, formerly § 210, 63 Stat. 393, renumbered Sept. 5, 1950, c. 849, § 5(a), 64 Stat. 580.

Historical Note

References in Text. This Act, referred to in text, is Act June 30, 1949, c. 288, 63 Stat. 375. Titles I-IV and VI-VIII thereof are classified to this chapter and chapter 16 of this title, and chapter 4 of Title 41, Public Contracts. Title V thereof was classified to former chapter 11 of Title 44, Public Printing and Documents, but was repealed by Pub.L. 90-620, § 2,

Oct. 22, 1968, 82 Stat. 1300. The subject matter of such former Title V is now covered by chapters 21, 25, 27, 29 and 31 of Title 41.

Effective Date. Section effective July 1, 1949, see note set out under section 471 of this title.

Historical Note

References in text. The Government Operation Control Act, referred to in sec. (a) (6), (b) and (c) is classified sections 841-870 of Title 31, Money and Finance.

Acts approved August 5, 1900 (36 Stat. 1033), and May 15, 1928 (45 Stat. 533), referred to in text, were not classified to Code.

For distribution and history of the Federal Property Act of 1941, referred to in the text of subsection (a) (9), see note for section 473 of this title.

Industrial Reserve Act of 1948 referred to in subsection (a) (10) is classified to sections 451-462 of Title 50, War and National Defense.

1968 Amendment. Subsec. (a) (15). Pub.L. 90-620 added subsec. (a) (15).

1965 Amendments. Subsec. (a) (14). Pub.L. 89-276 added subsec. (a) (14).

Subsec. (1). Pub.L. 89-344 added subsec. (1).

1959 Amendment. Subsec. (h) (1). Pub.L. 86-249 substituted "twenty years" for "ten years."

1958 Amendments. Subsec. (a) (13). Pub.L. 85-586, § 1, added subsec. (a) (13).

Subsec. (f). Pub.L. 85-886, § 3, inserted in first sentence, "including demolition and improvement with respect to Federal building sites authorized to be leased pursuant to subsection (a) of this section," and substituted, in third provision, "shall not be credited" for "shall not be credited for expenses of carrying out the provisions of the Act of June 24, 1948 (62 Stat. 644), or section 315 of this title and shall not be credited with receipts from operations under said provisions of the Act."

Subsec. (b). Pub.L. 85-493 added subsec. (b).

1954 Amendment. Subsec. (g). Act Sept. 1, 1954, added subsec. (g).

1953 Amendment. Subsec. (f). Act July 12, 1952, added subsec. (f).

Lease and Assignment of Space; Management. All functions with respect to acquiring space in buildings by lease, all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings), and all functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, were, with certain exceptions, transferred from the respective agencies in which theretofore vested to the Administrator of General Services by sections 1 and 2 of 1950 Reorg. Plan No. 13, eff. July 1, 1950, 15 F.R. 3177, 64 Stat. 1270, set out below. For delegation of such transferred functions to other personnel of the General Services Administration, or to the heads and personnel of other agencies, and for transfer of personnel, property, records, and funds, see sections 3 and 4 of such Plan.

Office of Emergency Preparedness. The name of the Office of Emergency Planning was changed to the Office of Emergency Preparedness by Pub. L. 90-609, c. IV, § 402, Oct. 21, 1968, 82 Stat. 1191, with reference in any other law to the Office of Emergency Planning to be deemed, after Oct. 21, 1968, a reference to the Office of Emergency Preparedness.

Legislative History. For legislative history and purpose of Act Sept. 5, 1950, see 1950 U.S. Code Cong. Service, p. 3517. See, also, Act July 12, 1952, 1952 U.S. Code Cong. and Adm. News, p. 2121; Act Sept. 5, 1954, 1954 U.S. Code Cong. and Adm. News, p. 3883; Pub.L. 85-493, 1958 U.S. Code Cong. and Adm. News, p. 2577; Pub.L. 85-886, 1958 U.S. Code Cong. and Adm. News, p. 5130; Pub.L. 86-249, 1959 U.S. Code Cong. and Adm. News, p. 2291; Pub.L. 89-276, 1945 U.S. Code Cong. and Adm. News, p. 3657; Pub.L. 89-344, 1945 U.S. Code Cong. and Adm. News, p. 4227; Pub.L. 90-620, 1968 U.S. Code Cong. and Adm. News, p. 4457.

1950 REORGANIZATION PLAN NO. 13

Eff. July 1, 1950, 15 F.R. 3177, 64 Stat. 1270.

Proposed by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949.

BUILDING AND SPACE MANAGEMENT FUNCTIONS

Section 1. Transfer of Space Assignment and Leasing Functions.—All functions with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings), are hereby transferred from the respective agencies in which such functions are now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) space in buildings located in any foreign country;

(b) space in buildings which are located on the grounds of any fort, camp, post, arsenal, Navy yard, naval training station, air-field, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) space occupied by the Post Office Department in post-office buildings and space acquired by lease for post-office purposes; and

(d) space in other Government-owned buildings which the Administrator of General Services finds are wholly or predominantly utilized for the special purposes of the agency having the custody thereof and are not generally suitable for the use of other agencies (including but not limited to hospitals, housing, laboratories, mints, manufacturing plants, and penal institutions), and space acquired by lease for any such purpose:

Provided, that the space needs of the Post Office Department shall be given priority in the assignment and reassignment of space in post-office buildings.

Sec. 2. Transfer of Office Building Management Functions.—All functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, are hereby transferred from the respective agencies in which now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) any building located in any foreign country;

(b) any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, air field, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) any building which the Administrator of General Services finds to be a part of a group of buildings which are (1) located in the same vicinity, (2) are utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (3) are not generally suitable for the use of other agencies; and

(d) the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

Sec. 3. Performance of Transferred Functions.—(a) The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

(b) When authorized by the Administrator of General Services, any function transferred to him by the provisions of this reorganization plan may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate: Provided, That functions with respect to post-office buildings shall not be delegated under the authority of this subsection to the head of any agency other than the Postmaster General.

(c) The Administrator of General Services shall prescribe such regulations as he deems desirable for the economical and effective performance of the functions transferred by the provisions of this reorganization plan.

Sec. 4. Transfer of Personnel Property, Records, and Funds.—There shall be transferred from time to time, between the agencies concerned and for use in connection with the functions transferred by the provisions of this reorganization

plan, so much of the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds, relating to such functions, as may be necessary for the performance of said functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be

necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

Sec. 5. **Effective Date.**—The provisions of this reorganization plan shall take effect on the 1st day of July 1950.

EXECUTIVE ORDER NO. 11035

July 9, 1952, 27 P.R. 6519

MANAGEMENT OF FEDERAL OFFICE SPACE

By virtue of the authority vested in me by the Federal Property and Administrative Services Act of 1949, as amended (this chapter and chapter 10 of this title, chapter 4 of Title 41, Public Contracts, and chapters 21, 25, 27, 29, and 31 of Title 41, Public Printing and Documents), and as President of the United States, it is hereby ordered as follows:

Section 1. The Administrator of General Services (hereinafter referred to as the Administrator) shall initiate and maintain plans and programs for the effective and efficient acquisition and utilization of Federally-owned and leased office space located in the states of the United States or in the District of Columbia or in Puerto Rico (hereinafter termed "in the United States"). The Administrator shall prepare and issue standards and criteria for the use of such office space and shall periodically undertake surveys of space requirements and space utilization in the executive agencies and initiate actions and formulate programs to meet the essential office space requirements of executive agencies. In carrying out these functions, the Administrator shall (a) coordinate proposed programs and plans for office buildings and space with the Bureau of the Budget, (b) obtain from the Civil Service Commission and the Office of Emergency Planning any information in the possession of those agencies which may bear upon such programs and plans, (c) take steps to relate programs for Federal office space to urban and metropolitan area planning and redevelopment objectives, (d) seek the cooperation of the heads of the executive agencies concerned with any of the foregoing, and (e) annually submit long-range plans and programs for the acquisition, modernization, and use of space for approval by the President.

Sec. 2. In carrying out the provisions of Section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(e)) [subsec. (e) of this section]:

(a) The Administrator, and the heads of executive agencies, shall be guided by the

following policies for the assignment, reassignment, and utilization of office buildings and space in the United States:

(1) Primary consideration shall be given to the efficient performance of the missions and programs of the executive agencies, with due regard for the convenience of the public served and the maintenance and improvement of the working conditions of employees;

(2) Maximum use shall be made of existing Government-owned permanent buildings which are adequate or economically adaptable to the space needs of executive agencies;

(3) Suitable privately-owned space shall be acquired only when satisfactory Government-owned space is not available, and only at rental charges which are consistent with prevailing scales in the community for comparable facilities;

(4) Space planning and assignments shall take into account the objective of consolidating agencies and constituent parts thereof in common or adjacent space for the purpose of improving management and administration;

(5) The quality of office space for Government operations shall be appropriate for the efficient and economical performance of governmental activities, while affording employees safe, healthful, and convenient conditions of employment.

(b) The Administrator shall assign and reassign office space in the United States upon his determination that such assignment or reassignment will serve to improve the management and administration of governmental activities and services, and will foster economy and efficiency. Prior to making such determinations, the Administrator shall consult with the heads of the executive agencies concerned and take fully into account their requirements, consistent with his responsibilities. In the event that a head of an agency deems space assigned or reassigned to his agency to be unsuitable, and the agency head and the Administrator are unable to resolve the matter, the former, as prompt-

ly as may be practicable and in no event later than the effective date of the Administrator's assignment or reassignment, may make a written report thereof, including information and views pertinent thereto, to the President or to the Director of the Bureau of the Budget.

Sec. 3. The heads of executive agencies shall (a) cooperate with and assist the Administrator in carrying out his responsibilities respecting office buildings and space, (b) take measures to give the Administrator early notice of new or changing space requirements, (c) seek to economize in their requirements for space, and (d) review continuously their needs for space in and near the District of

Columbia, taking into account the feasibility of decentralizing services or activities which can be carried on elsewhere without excessive costs or significant loss of efficiency.

Sec. 4. The provisions of this order shall be subject to applicable provisions of law (including applicable provisions of any reorganization plan).

Sec. 5. To the extent that it pertains to office space and buildings, the letter of the President to the Administrator, General Services Administration, dated August 31, 1950, is hereby superseded.

JOHN F. KENNEDY

Library References

United States 57.

C.J.S. United States § 74.

§ 491. Motor vehicle pools and transportation systems—Establishment

(a) In order to carry out the policy, expressed in section 471 of this title, to provide for an economical and efficient system for transportation of Government personnel and property, it is further intended by the Congress in enacting this section to (1) provide for the proper identification of Government motor vehicles; (2) establish effective means of limiting their use to official governmental purposes; (3) reduce the number of Government-owned vehicles to the minimum necessary for transaction of the public business; (4) provide wherever practicable for centrally operated interagency pools or systems for local transportation of Government personnel and property; and (5) establish procedures to insure safe operation of motor vehicles on Government business.

Determinations by Administrator

(b) Subject to regulations issued by the President pursuant to subsection (c) of this section, the Administrator shall in respect of executive agencies, and to the extent that he determines that so doing is advantageous to the Government in terms of economy, efficiency, or service, after consultation with and with due regard to the program activities of the agencies concerned, (1) consolidate, take over, acquire, or arrange for the operation by any executive agency of, motor vehicles and other related equipment and supplies for the purpose of establishing motor vehicle pools and systems to serve the needs of executive agencies; and (2) provide for the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pools or systems for transportation of property, passengers, and for furnishing such motor vehicle and related services to executive agencies. Such motor vehicle services may be furnished, as determined by the Administrator, through the use, and

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incorporation by reference is not a dispositive factor in decisions of our courts. The basic thread connecting many cases is that the bid was nevertheless determined to be the above-cited case, see 49 Comp. Gen. 15, 1970; and *Spectrolab, a Division of* 12, 1974, 74-1 CPD 321. In B-173000, 73 with the "Solicitation" and "Order"; however, it failed to include pages which contained numerous material terms and modifying SF 32 and SF 33.

whether there is some evidence in the contents of the invitation submitted with its bid, which shows into the corporation's bid. In this solicitation package consisted of 28 pages numbered "Offer" portion of the Standard Form 33 which it form with its bid. The solicitation was dated and place of issuance, at the top of the bid comprised of 28 pages which designated the corporation's bid clearly identified the contents as consisting of 28 pages all of the 28 pages contained or referenced therein were, in reference in the bid documents as signed by the corporation should therefore be considered as bound by all of the substantive terms and conditions. n. 680 (1968).

in the above-cited case the omitted pro-
 rporated by reference because Gornell
 of the facesheet of SF 33 which iden-
 comprised of 28 pages. This does not
 nt situation. While ISC completed and
 33, including the "Offer" portion, the
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meaning attributable to the cover letter or free of ambiguity. It could be interpreted in complete conformance to the IFB as issued. On the other hand, it could be interpreted to mean that ISC was bound by such terms and conditions as were encompassed in its bid. Thus, we find no error in the finding that ISC was bound by all the material in the IFB. In B-172183, June 29, 1971, we stated that there were two reasonable interpretations, under one of which the contractor was bound by the IFB and under the other some provisions of the contract prevailed. We followed the rule that the interpretation which is most favorable to the Government should be adopted. In this case, the interpretation which is most favorable to the Government is that the contractor is bound by the IFB.

...to explain his intended meaning after bid opening. Rather,
...is considered nonresponsive.
In view of the foregoing, the bid is nonresponsive and not acceptable
for award.

【 B-177610 】

Appropriations—Veterans Administration—Parking Facilities

General Services Administration (GSA) pursuant to 5 U.S.C. 490(j) Veterans Administration (VA) for parking space for use of employees, and related services, VA appropriations are available to pay such charges subject to 90 percent limitation contained in VA annual appropriations.

Property—Public—Space Assignment—Charge Assessment

~~When~~ Executive agency other than GSA provides parking ~~space~~ or related services to employees, or to others, agency is authorized by 40 U.S.C. 490(k) to charge ~~fees~~ payments therefor if, but only if, rates are approved by Administrator of General Services and the Office of Management and Budget.

Fees—Parking—Disposition

Under 40 U.S.C. 490(k), fees collected by an Executive agency for space provided to "anyone" pursuant to that provision, including parking fees collected from employees, if rates therefor are approved, are generally to be credited to appropriations initially charged for such services, except that amounts collected in excess of actual costs must be remitted to the Treasury as miscellaneous receipts.

**General Services Administration—Authority—Space Assignment—
Parking**

General Services Administration does not assert, nor does it have authority to force agencies to accept and pay for parking space in excess of their stated needs.

In the matter of parking fees and charges for General Services Administration-provided space and services, March 17, 1976:

The Deputy Administrator of Veterans Affairs requests our decision on several questions concerning the propriety of payments to the General Services Administration (GSA) and the collection of fees from employees for parking space and services where parking is provided at Veterans Administration (VA) facilities other than Hospitals.

The VA states that the General Services Administration is utilizing the "Standard Level User Charge" (SLUC) to ~~assess~~ charges for parking spaces under GSA control allocated to the VA and related services including some parking space provided directly to individual VA employees. The Deputy Administrator question whether Congress contemplated "that such payments would, in effect, provide free parking to government employees" and asks whether VA can recoup parking costs by charging its employees. He also asks that in some instances space has been assigned although not requested by VA.

Such a provision has been routinely included in appropriation acts since enactment of Public Law 93-381, § 506, August 21, 1974, 88 Stat. 630. This restriction was explained in the report of the House Committee on Appropriations, on the legislation enacted as Public Law 93-381, H. Report No. 93-1132, 39 (1974), as follows:

After consideration of the budget and proposals of the General Services Administration, the Committee reached the following conclusions:

1. The standard level user charges established by GSA are in excess of comparable commercial rates for space and services.
2. A reduction of 10% in these rental charges was assessed and each appropriation act will reduce the amount allowed for such charges by that amount.

In view of the foregoing authorities, we are of the opinion that moneys appropriated for the use of the Veterans Administration for necessary expenses, including maintenance or operating expenses, for the current fiscal year and through September 30, 1976, are available for payment of 90 percent of GSA's standard level user charges for space and services, assessed pursuant to 40 U.S.C. § 490(j), including charges attributable to employee parking spaces. Accordingly, the first question submitted is answered in the affirmative.

With reference to the second question, section 490(k) of Title 40, U.S. Code (Supp. IV, 1974) provides that:

Any executive agency, other than the General Services Administration, which provides to anyone space and services set forth in subsection (j) of this section, is authorized to charge the occupant for such space and services at rates approved by the Administrator. Moneys derived by such executive agency from such rates or fees shall be credited to the appropriation or fund initially charged for providing the service, except that amounts which are in excess of actual operating and maintenance costs of providing the service shall be credited to miscellaneous receipts unless otherwise authorized by law.

VA suggests that, notwithstanding use of the term "anyone" in this subsection, the legislative history of the Public Buildings Amendments of 1972 appears to limit its applicability to charging other Federal agencies for space, thereby precluding recoupment of parking space charges from employees. However, the VA did not cite the legislative history on which it relies, and we are not aware of any supporting materials on this point. Following several general rules of statutory construction, the term "anyone" as used in section 210(k) [40 U.S.C. § 490(k)] should be given the same meaning as in the preceding section 210(j) which deals with charges by the Administrator to "anyone" furnished space or services. The legislative history of section 210(j) indicates that the term anyone was substituted for the term eligible agency in H.R. 10488, 92nd Congress, by the House Committee on Public Works. Eligible agency was defined in the bill to include private persons and organizations. S. 1736, 92nd Congress, a similar bill authorized GSA to charge any "Federal agency, * * * Federal employee, private persons, or organization" furnished space. The conference report accompanying S. 1736 adopted the House lan-

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agency appropriation or fund pursuant to § 490(k) would, of course, take on the identity of that appropriation or fund and therefore become subject to its period of availability. Thus, assuming that the applicable VA appropriations would be available on a fiscal year basis, and in the absence of any specific statutory authority to the contrary, "an account in the nature of a parking revolving fund" could not be created.

The fourth question is directed to the propriety of GSA's allocation of parking spaces either to the agency or directly to individual employees for which the agency is charged although the agency feels these spaces are in excess of their needs. In response to our inquiry on this point, GSA's report stated:

*** It is not GSA policy to *require* agencies to accept and pay for parking spaces in any number in excess of its [sic] needs. *** Generally, the number of parking spaces available for assignment is less than the demand for such spaces. In the event *** the Veterans Administration believes that it is assigned parking spaces in excess of its needs, it is suggested that it contact our Public Buildings Service to discuss the matter in order that appropriate adjustments can be made.

Note that GSA refers to employee parking spaces assigned to *and accepted by* agencies. Thus GSA does not—and, in our view, could not—assert a right to force agencies to accept and pay for parking space which they do not need. *Cf.* 52 Comp. Gen. 957, *supra*, at 961.

In this regard we note that the Administrator has provided by regulation, as follows:

The space utilization program is designed to effect maximum efficient utilization of Government-controlled space. Space for which there is no current foreseeable need will be relinquished. Federal Property Management Regulations, § 101-17.203.

GSA shall be notified by an agency occupying space assigned by GSA at least 60 days prior to the date on which the space, or portion thereof, will no longer be needed. *** Such notification shall be in writing to the GSA regional office responsible for the geographical area in which the space is located. *** When a portion of space is released, it must be consolidated and accessible for re-assignment. *** The appropriate GSA regional office may reassign or dispose of the space. *Id.*, § 101-17.204(a).

Accordingly, it would appear that where a Government agency occupies parking space assigned by the GSA for which there is no current or foreseeable agency need, the agency may relinquish that space by giving the notice required.

With respect to GSA's authority to allocate parking spaces directly to individual agency employees and to charge the agency therefor, we considered this question in 52 Comp. Gen. 957, *supra*, in connection with proposed regulations by GSA to implement the standard level user charge. We concluded, *inter alia*, that GSA had authority to assign parking spaces to agencies for assignment to employees, or to agency employees directly and that it could impose the SLUC in

either case. However, in neither instance may an agency be compelled to pay for a parking space which it has determined is not necessary and which it has declined to accept. *Id.*, at 960-61.

[B-184062]

Contracts—Awards—Small Business Concerns—Set-Asides—Competition Sufficiency

Although original determination to set aside procurements for shirts and trousers for small business was not in accordance with Armed Services Procurement Reg. 1-706.5(a)(1) (1974 ed.) in that it was based upon expediency rather than required reasons, since there was small business competition for procurements and prices were determined to be reasonable, there is no basis to conclude that there was not proper basis for ultimate awards.

Bids—Nonresponsive to Invitation—Large Business Bids—Small Business Set-Asides

Large business bids on small business set-aside procurements are nonresponsive and contracting officer is not required to consider bids. Moreover, 15 U.S.C. 631, *et seq.*, has been interpreted to mean that Government may pay premium price to small business firms on restrictive procurements to implement policy of Congress.

Contracts—Awards—Small Business Concerns—Set-Asides—Justification

Time of preparing justification that set-aside is necessary to assure that fair proportion of Government procurement is placed with small business does not affect validity of award if proper basis for award exists.

Contracts—Awards—Small Business Concerns—Fair Proportion Criteria

Where contracting officer has noted that in past year number of solicitations for shirts and trousers has been issued on unrestricted basis with number of awards going to large business protester, contention of protester that set-aside in instant case comprises more than "fair proportion" of Government procurement to small business does not provide basis to conclude that there was not proper basis for ultimate awards to small business.

In the matter of J. H. Rutter Rex Manufacturing Company, Inc., March 17, 1976:

The subject bid protest concerns invitations for bids (IFB) Nos. DSA100-75-B-1114 (hereinafter 1114) and DSA100-75-B-1121 (hereinafter 1121) issued by the Defense Personnel Support Center (DPSC), Defense Supply Agency, May 19, 1975, and May 23, 1975, respectively. The issues presented are identical for both IFB's and will be treated synonymously.

J. H. Rutter Rex Manufacturing Co., Inc. (Rutter Rex), protested the award of contracts to PRB Uniforms, Inc. (PRB), and Doyle Shirt Manufacturing Corporation (Doyle) under IFB 1114 and to

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whether there is some evidence in the General of the invitation submitted with its bid, then shows into the corporation's bid. In this solicitation package consisted of 28 pages numbered "Offer" portion of the Standard Form 33 used in form with its bid. The solicitation, was dated and place of issuance, at the top of the 1 comprised of 28 pages which designated the General's bid clearly identified the contents as consisting of 28 pages all of the 28 pages contained or referenced therein were, in inference in the bid documents as signed and contents should therefore be considered as found by all of the substantive terms and n. 680 (1968).

in the above-cited case the omitted portions were incorporated by reference because Gornell was not a part of the facesheet of SF 33 which identified the document as comprising 28 pages. This does not present the same situation. While ISC completed and reviewed SF 33, including the "Offer" portion, the facesheet was page 1 and did not show that the document comprised 28 pages, including section "L" which was omitted from the provisions.

meaning attributable to the cover letter of free of ambiguity. It could be interpreted in complete conformance to the IFB as issued. On the other hand, it could be interpreted to mean that ISC was bound by all the material terms and conditions as were encompassed in the IFB. Thus, we find no error in the award to the respondent.

In B-172183, June 29, 1971, we stated two reasonable interpretations, under one and under the other none applied the rule that the

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attempted to explain his intended meaning after bid opening. Rather, the bid is considered nonresponsive. In view of the foregoing, the bid is nonresponsive and not acceptable award.

[B-177610]

[B-177610]

Appropriations—Veterans Administration—Parking Facilities

General Services Administration (GSA) pursuant to 5 U.S.C. 490(j) and Veterans Administration (VA) for parking space for use of employees, and related services, VA appropriations are available to pay such charges subject to 90 percent limitation contained in VA annual appropriations.

Property—Public—Space Assignment—Charge Assessment

Where Executive agency other than GSA provides parking space or related services to employees, or to others, agency is authorized by 40 U.S.C. 50(k) to charge occupants therefor if, but only if, rates are approved by Administrator of General Services and the Office of Management and Budget.

Fee—Parking—Disposition

Under 40 U.S.C. 490(k), fees collected by an Executive agency for space provided to anyone pursuant to that provision, including parking fees collected from employees, if rates therefor are approved, are generally to be remitted to appropriations initially charged for such services, except that amounts collected in excess of actual costs must be remitted to the Treasury as miscellaneous receipts.

**General Services Administration—Authority—Space Assignment—
Parking**

General Services Administration does not assert, nor does it have, authority to force agencies to accept and pay for parking space in excess of their stated needs.

In the matter of parking fees and charges for General Services Administration-provided space and services, March 17, 1976:

The Deputy Administrator of Veterans Affairs requests our decision on several questions concerning the propriety of payments to the General Services Administration (GSA) and to collection of fees from employees for parking space and services where parking is provided at Veterans Administration (VA) facilities other than Hospitals.

The VA states that the General Services Administration is utilizing the "Standard Level User Charge" (SLUC) to ~~assess~~ charges for parking spaces under GSA control located to the VA and related services including some parking spaces provided directly to individual VA employees. The Deputy Administrator questioned whether Congress contemplated "that such payments would, in effect, provide free parking to government employees" and asks whether VA can recoup parking costs by charging its employees. He also ~~notes~~ that in some instances space has been assigned although not located by VA.

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Such a provision has been routinely included in appropriation acts since enactment of Public Law 93-381, § 506, August 21, 1974, 88 Stat. 630. This restriction was explained in the report of the House Committee on Appropriations, on the legislation enacted as Public Law 93-381, H. Report No. 93-1132, 39 (1974), as follows:

After consideration of the budget and proposals of the General Services Administration, the Committee reached the following conclusions:

1. The standard level user charges established by GSA are in excess of comparable commercial rates for space and services.
2. A reduction of 10% in these rental charges was assessed and each appropriation act will reduce the amount allowed for such charges by that amount.

In view of the foregoing authorities, we are of the opinion that moneys appropriated for the use of the Veterans Administration for necessary expenses, including maintenance or operating expenses, for the current fiscal year and through September 30, 1976, are available for payment of 90 percent of GSA's standard level user charges for space and services, assessed pursuant to 40 U.S.C. § 490(j), including charges attributable to employee parking spaces. Accordingly, the first question submitted is answered in the affirmative.

With reference to the second question, section 490(k) of Title 40, U.S. Code (Supp. IV, 1974) provides that:

Any executive agency, other than the General Services Administration, which provides to anyone space and services set forth in subsection (j) of this section, is authorized to charge the occupant for such space and services at rates approved by the Administrator. Moneys derived by such executive agency from such rates or fees shall be credited to the appropriation or fund initially charged for providing the service, except that amounts which are in excess of actual operating and maintenance costs of providing the service shall be credited to miscellaneous receipts unless otherwise authorized by law.

VA suggests that, notwithstanding use of the term "anyone" in this subsection, the legislative history of the Public Buildings Amendments of 1972 appears to limit its applicability to charging other Federal agencies for space, thereby precluding recoupment of parking space charges from employees. However, the VA did not cite the legislative history on which it relies, and we are not aware of any supporting materials on this point. Following several general rules of statutory construction, the term "anyone" as used in section 210(k) [40 U.S.C. § 490(k)] should be given the same meaning as in the preceding section 210(j) which deals with charges by the Administrator to "anyone" furnished space or services. The legislative history of section 210(j) indicates that the term anyone was substituted for the term eligible agency in H.R. 10488, 92nd Congress, by the House Committee on Public Works. Eligible agency was defined in the bill to include private persons and organizations. S. 1736, 92nd Congress, a similar bill authorized GSA to charge any "Federal agency, * * * Federal employee, private persons, or organization" furnished space. The conference report accompanying S. 1736 adopted the House lan-

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guage, H. Report No. 92-1097. Thus it seems clear that the term "anyone" is not limited to other Federal agencies but may also include individual Federal employees or others, to whom parking privileges are accorded. See 52 Comp. Gen. 957, 960-961, in which we treated the statutory provisions for leasing space at SLUC rates as being equally applicable, whether the occupant is a Federal agency or private concessionaire.

Concerning VA's authority to charge employees for parking spaces notwithstanding the fact that GSA has not established rates for this purpose, 40 U.S.C. § 490(k) expressly limits charges thereunder to "rates approved by the Administrator [of General Services]." Moreover, GSA is authorized to adopt regulations to "carry out the provisions of the Public Buildings Amendments of 1972," to be:

**** coordinated with the Office of Management and Budget, and the rates established by the Administrator of General Services pursuant to *** [§§ 490 (j), (k)] shall be approved by the Director of the Office of Management and Budget. Pub. L. No. 92-313, § 7, 86 Stat. 221, 40 U.S.C. § 603 note (Supp. IV, 1971). [Italic supplied.]*

In our view, the foregoing provisions necessarily have the effect of making approval of rates by GSA and the Office of Management and Budget a prerequisite to an agency's imposition of charges under § 490(k). Thus, in response to the second question, 40 U.S.C. § 490(k) authorizes VA to impose charges for employee parking if, but only if, rates therefor have been approved by GSA and OMB. While VA apparently has not sought approval of rates for employee parking charges, according to a report furnished to us from GSA, it is "not inclined" at this time to approve rates for such purpose pending development of a national policy in this regard. GSA states:

**** Since the enactment of the 1972 amendments to the *** [Federal Property and Administrative Services Act of 1949, 40 U.S.C. §§ 490(j), (k) (Supp. IV, 1971)] the only agency request received by GSA for approval of such rates for parking was not approved by GSA following discussions with the agency and our Office of Federal Management and Policy, which has been delegated responsibility to establish a national parking policy by the Office of Management and Budget. Pending development of a national policy, GSA is not inclined *** to approve parking rates to be assessed against individual Government employees. We believe that if such a policy is adopted it should be applied on a uniform basis, without regard to the preferences of a single agency.*

If employee parking charges eventually obtain the requisite approvals, VA's third question concerning the disposition of receipts from such charges seems to be answered by the express terms of 40 U.S.C. § 490(k). This subsection states that, unless otherwise authorized by law, moneys derived from charges thereunder shall be credited to the appropriation or fund initially charged for providing the service, except that amounts in excess of actual costs shall be treated as miscellaneous receipts. We have not been referred to any statute which would supersede § 490(k) in the case of VA. Receipts credited to an

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agency appropriate take on the idea become subject to applicable VA basis, and in the contrary, "an account not be created.

The fourth question of parking spaces for employees for which these spaces are on this point, GSA

**** It is not GSA's policy to provide parking spaces in any number of parking spaces available in the event of a parking spaces in the Buildings Service can be made.*

Note that GSA accepted by agencies assert a right to which they do not

In this regard, the regulation, as follows:

The space utilization of Government facilities shall be such as to meet the reasonable need will be § 101-17.203.

GSA shall be notified 60 days prior to the time needed. *** So responsible for the a portion of space assignment. *** of the space. *Id.*, § 101-17.203.

Accordingly, it violates parking space or foreseeable agency giving the notice.

With respect to individual agencies we considered this with proposed user charge. We assign parking space to agency employee

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SUBPART 101-20.1 BUILDING OPERATIONS, MAINTENANCE, PROTECTION, AND ALTERATIONS

101-20.111-2a (7)(b)(2)(ii)

§ 101-20.111 Vehicle parking facilities.

§ 101-20.111-1 General.

GSA is responsible for determining what space in and around properties under its custody and control may be used for vehicle parking purposes.

§ 101-20.111-2 Policy.

Vehicle parking facilities to accommodate the needs of Federal agencies will be established in and around properties under the custody and control of GSA. Such facilities will be consistent with the character of other properties in the neighborhood and local planning requirements, will not adversely affect the use or appearance of the property, and will not constitute a traffic hazard.

§ 101-20.111-2a Priority of assignment of parking spaces.

(a) Vehicle parking spaces shall first be reserved for official needs in the following order of priority:

(1) Mailcarrier maneuvering area and official Postal Service vehicle parking (including contract mail-hauling vehicles and private vehicles of rural carriers) at buildings containing Postal Service mailing operations.

(2) Government-owned vehicles specially outfitted and used for criminal apprehension law enforcement activities and firefighting and other emergency vehicles.

(3) Privately owned vehicles of Federal judges and Members of Congress. Priority is limited to these individuals for security purposes and does not include members of their staffs.

(4) Privately owned vehicles of agency heads. Priority is limited to these individuals and does not include members of their staffs. An agency head is defined as:

(i) The senior official with authority and responsibility for administering a nationwide program at the agency or bureau level; or

(ii) The senior official in a regional office with authority and responsibility for administering a program in a geographic area of more than one State.

(5) Government-owned vehicles other than those listed in subparagraphs (1) and (2) of this paragraph. These include motor pool dispatch vehicles and vehicles assigned to agencies for general use.

(i) The total number of parking spaces provided for all Government-owned vehicles shall be an amount less than the total number of such vehicles. The type of vehicles involved and the character of the motor pool operation

shall determine the ratio of parking spaces to vehicles.

(ii) If feasible, areas assigned for Government-owned vehicles may be used during other than early morning or late afternoon hours for visitor and service vehicles or other vehicles as appropriate.

(6) Vehicles of patrons and visitors and service vehicles not accommodated under subparagraph (5)(ii) of this paragraph.

(7) Privately owned vehicles of employees of occupant agencies regularly used for Government business. The term "privately owned vehicles regularly used for Government business" means vehicles used 12 or more workdays per month for Government business for which the employee receives reimbursement for mileage and parking fees under Government travel regulations. Monthly certification, such as travel vouchers, may be required to establish this priority.

(b) When requested by agencies, the parking spaces not required for "official parking" may be used for employee parking. In the assignment of employee parking spaces, the following sequence of priorities shall be observed:

(1) Severely handicapped Government employees for whom assigned parking spaces are necessary. These are employees so severely physically handicapped as to prohibit or make unreasonably difficult the use of public transportation. Justification for this priority may require certification by an agency medical unit including the Veterans' Administration, by the Public Health Service, or by a private physician.

(2) Privately owned vehicles of employees of occupant agencies not otherwise accommodated. Assignments shall be made in accordance with applicable carpooling regulations. (See § 101-20.117.)

(i) Parking spaces allocated to agencies. Under most circumstances (see subparagraph (ii), below, for an exception), available employee parking will be allocated to each agency in proportion to its share of the total building population. The agency, in turn, shall assign spaces to employees, using the number of persons in a carpool as the primary priority in accordance with applicable carpooling regulations.

(ii) Assignment on a zonal basis. In the Metropolitan Washington, D.C., area and in other major metropolitan areas, to achieve more efficient utilization of space and equality in the availability of parking for all Federal employees, the Regional Administrator, GSA, may have all parking allocations based on a zonal

PART 101-20 MANAGEMENT OF BUILDINGS AND GROUNDS

101-20.111-2a (7)(b)(2)(iii)

concept rather than on individual sites. In locations where this method is followed, all agencies located in a zone would compete for the available parking in accordance with instructions issued by the Regional Administrator. In establishing this procedure, the Regional Administrator will consult with all affected agencies.

§ 101-20.111-2b Increased utilization of parking facilities.

GSA will take the following actions, where appropriate, to intensify the utilization of parking spaces:

(a) Periodically or as required, GSA, in consultation with the agencies, will make appropriate surveys, conduct studies, and review parking space allocations to determine the rate of utilization of vehicles and space in vehicle parking facilities and will increase, where feasible, the number of vehicles authorized to use the facilities. GSA will reallocate space, as necessary, in accordance with the priorities set forth in § 101-20.111-2a.

(b) GSA will coordinate agency vehicle parking requirements within the urban centers listed in § 101-18.102 so that agencies are made aware of the availability of parking spaces within each urban center.

(c) In most instances, avoiding the assignment of individual reserved parking spaces will result in increased efficiency in the use of the available parking spaces. Where necessary, a limited number of spaces may be reserved for certain individuals such as judges, Members of Congress, and handicapped persons. In this manner, the number of permits can be overallocated to have greater availability of parking for employees. In instances in which allocation of parking spaces is made on the basis of individual spaces rather than block spaces, poor utilization usually results. Therefore, adequate justification must be documented showing economic or other significant reasons for reservation of individual spaces rather than allocation on a block basis.

(d) Where feasible, GSA or other agencies, as appropriate, will employ commercial practices of parking management concerns by stackparking vehicles bumper-to-bumper with a minimum of access aisles. This will result in an increase in the number of vehicles which can be accommodated.

(e) Paid attendants may be used in some instances under arrangements with a parking management contractor (concessionaire). This technique may be used

in conjunction with neither stackparking or block parking or in locations where it is deemed advantageous to use a management contractor to operate the parking facility. In instances in which a parking contractor is used, the fees for management of the facility shall be paid by the employees using the facility.

(f) Motor pool vehicles and vehicles on indefinite assignment to agencies shall be subject to the same parking procedures (such as bumper-to-bumper parking) as employee vehicles. Emergency and law enforcement vehicles (see § 101-20.111-2a(a)(2)) are exempt from such procedures.

(g) The provision of facilities for storing vehicles which are awaiting disposal or assignment or which have been impounded by law enforcement agencies shall be limited to outlying locations where spaces are not at a premium.

§ 101-20.111-2c Billing for assigned vehicle parking spaces.

(a) *Official parking.* Each agency will be billed the appropriate standard level user charge (SLUC) for all official parking spaces assigned in accordance with § 101-20.111-2a. Visitor, patron, and service vehicle parking spaces assigned specifically to an agency will be billed at the appropriate standard level user charge. Spaces assigned or reserved for general use by visitor, patron, and service vehicles will be billed on a prorated basis to using agencies.

(b) *Employee parking.* Employee vehicle parking spaces, when requested by an agency, will be assigned in accordance with § 101-20.111-2a. The agency will be billed the appropriate standard level user charge. (Note.—SLUC billings will be made to agencies and not to individual employees.) In situations in which the number of parking spaces exceeds the number requested by using agencies, such as may occur at Federal centers and depots, the excess spaces will be metered, made available to a concessionaire or to an employee group by outlease or permit, or otherwise handled as appropriate.

§ 101-20.111-3 Parking space allotments.

Allotment of areas will be made to agencies, which shall administer those areas for parking purposes. Guidelines for policing public buildings and grounds, including parking areas, are set forth in Subpart 101-20.3. If necessary, and at occupant agency request, provisions will be made by GSA to regulate the use of parking areas by policing with GSA or

SUBP 101-20.1 BUILDING OPERATI MAINTENANCE, PROTECTION, AND ALTERATIONS

101-20.112-4(b)

other Government personnel or by arrangements with local law enforcement authorities. Unusual protection requirements shall be subject to reimbursement.

§ 101-20.112 Concessions.

§ 101-20.112-1 Applicability.

This section applies to concessions in buildings operated by GSA, except vending stands operated by blind persons under the Randolph-Sheppard Act (20 U.S.C. 107 et seq.).

§ 101-20.112-2 General.

(a) Concessions require the use of space and the provision of various building facilities and services. The type and location of each concession may seriously affect GSA costs for its installation, as well as later costs for building maintenance and operation.

(b) It is essential, therefore, that the type and location of each concession be satisfactory to GSA and that each concession contract definitely establish the responsibilities of the concessionaire with respect to costs and other matters which affect building maintenance and operation. It also is imperative that consideration be given to pertinent legislation and the terms of existing contracts between GSA and concessionaires.

(c) GSA will arrange for the establishment of all concessions, including

public telephones, in buildings under its custody and control. It will provide suitable space for approved concessions, arrange for necessary alterations and installations, enter into contracts or issue permits, and select concessionaires.

§ 101-20.112-3 Transferred buildings.

Concessions which were contracted for or otherwise arranged for by a Federal agency having custody and control of a building before its transfer to GSA, except concessions operated by the blind, may be continued under the supervision of that agency upon written approval of GSA subject to the following:

(a) Proposed alterations and improvements, purchases of equipment for replacement, and other matters affecting the building structure or its maintenance and operation, shall be approved by GSA.

(b) GSA will arrange for periodic inspections to insure compliance with safety, health, and sanitary codes.

§ 101-20.112-4 Supervision.

(a) Responsibility for supervision and administration of all concessions, except as provided in § 101-20.112-3, is vested in GSA.

(b) In the case of contracts and permits to which GSA is a party, officials of

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lease contracts shall include the conservation policies prescribed in § 101-20.116-2 and § 101-20.116-3 to the extent feasible within the existing contract provisions or by amendment thereto.

§ 101-20.116-6 Reporting requirements.

(a) Each agency shall report the energy consumption in buildings and facilities under its control within 45 calendar days after the end of each quarter, as specified in the Federal Energy Administration Energy Conservation Performance Report, Form FEA U 502-0-0. Forms shall be mailed to the Federal Energy Administration, Mail Code 2898, Washington, DC 20461. In addition, a copy of the report shall be sent simultaneously to the Administrator of General Services, Washington, DC 20405.

(b) This report has been cleared in accordance with FPMR 101-11.11 and assigned interagency report control number 1492-FEA-OU.

§ 101-20.117 Carpool parking.

§ 101-20.117-1 Definitions.

The following definitions shall apply to this section:

(a) "Agency parking" means vehicle parking spaces under the jurisdiction and/or control of a Federal agency which are used for parking Government vehicles, other official vehicles, visitor vehicles, and employee vehicles.

(b) "Carpool" means a group of two or more people using a motor vehicle for transportation to and from work.

(c) "Employee parking" means the parking space assigned for the use of employee-owned vehicles other than those classified as "official parking."

(d) "Federal agency" means any executive department or independent establishment in the executive branch of Government, including any wholly owned Government corporation.

(e) "Handicapped employees" means Government employees so severely physically handicapped as to prohibit or make unreasonably difficult the use of public transportation. Justification for this priority may require certification by an agency medical unit or the Public Health Service.

(f) "Official parking" means parking spaces reserved for Government-owned, Government-leased, or privately owned vehicles regularly used for Government business. The phrase "privately owned vehicles regularly used for Government business" means vehicles used 12 or more workdays per month for Government business for which the employee receives reimbursement for mileage and parking fees under Government travel regulations. Monthly certification by agency heads may be required to establish this priority.

(g) "Parking space" means the area allocated in a parking facility for the temporary storage of one passenger-carrying motor vehicle.

(h) "Regular member" means a person who travels daily (leave excepted) in a carpool for a minimum distance of 1 mile each way. In addition, an agency may define a regular member as one whose worksite is located within a specific but reasonable distance from the parking facility.

(i) "Visitor parking" means parking spaces reserved for the exclusive use of visitors to Federal facilities.

§ 101-20.117-2 Policies.

Agencies shall encourage the conservation of energy by taking positive action to increase carpooling. The following policies shall be reflected in agency plans:

(a) *Parking.* In assigning all parking spaces assigned to or controlled by each agency, the following policies shall be observed:

(1) Agencies shall give first priority to official and visitor parking requirements.

(2) Severely handicapped Government employees for whom assigned parking spaces are necessary shall be accommodated.

(3) A goal of not more than 10 percent of the total spaces available for employee parking on an agency-wide basis (excluding spaces assigned to severely handicapped) shall be assigned to executive personnel and persons who are assigned unusual hours.

(4) All other spaces available for employee parking shall be made available to carpools to the extent practical.